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December 13, 2022

**VIA ECF**

Honorable Jesse M. Furman  
United States District Court  
Southern District of New York  
40 Centre Street, Room 2202  
New York, NY 10007

*Re: New York City Transit Authority v. Express Scripts, Inc., No. 1:19-cv-05196-JMF  
(S.D.N.Y.)*

Dear Judge Furman:

On behalf of Plaintiff the New York City Transit Authority (“NYCTA”), and pursuant to Section 6 of the S.D.N.Y.’s Electronic Case Filing Rules and Section 7 of the Court’s Individual Rules and Practices in Civil Cases, we write to request leave to file certain exhibits in redacted form or under seal. Because these documents were inadvertently filed with NYCTA’s opposition to Express Scripts’ motions *in limine* without the appropriate level of protection, NYCTA also requests that the Court withdraw or temporarily seal these exhibits from public view on the docket until this letter-motion is resolved.

NYCTA understands that Express Scripts is asserting confidentiality over some of the documents or portions of documents that were filed as exhibits to the Declaration of Stephanie A. Ackerman in Support of NYCTA’s Opposition to Defendant’s Motions *in Limine*. ECF No. 215. The NYCTA does not object to the redaction or sealing of these documents, and the Court has granted prior requests for these documents to be filed in redacted form or under seal. *See* Order, ECF No. 151 (March 16, 2022). The Court’s prior Order granted requests to file an exhibit identical to Ackerman Exhibit 21 (*see* ECF No. 115-1) in redacted form and Ackerman Exhibit 37 (*see* ECF No. 126-4) under seal. Ackerman Exhibits 38-41 contain substantially the same information as Ackerman Exhibit 37.

The documents that Express Scripts has requested be filed as redacted are as follows:

- Ackerman Declaration, Exhibit 21 (Supplemental Expert Report of Susan Hayes), ECF No. 215-21

The documents that Express Scripts has requested be filed under seal are as follows:

- Ackerman Declaration, Exhibit 37 (Express\_Scripts\_1095\_00007690), ECF No. 215-37
- Ackerman Declaration, Exhibit 38 (Express\_Scripts\_1095\_00007696), ECF No. 215-38
- Ackerman Declaration, Exhibit 39 (Express\_Scripts\_1095\_00007678), ECF No. 215-39
- Ackerman Declaration, Exhibit 40 (Express\_Scripts\_1095\_00007684), ECF No. 215-40
- Ackerman Declaration, Exhibit 41 (Express\_Scripts\_1095\_00007672), ECF No. 215-41

The NYCTA has redacted any personal health information in accordance with this Court's Rule 7(A) and does not otherwise assert confidentiality over these documents.

Accordingly, the NYCTA respectfully requests leave to redact and file under seal the documents referenced above. A highlighted version of the document containing Express Scripts' proposed redactions is being filed contemporaneously herewith.

Respectfully submitted,

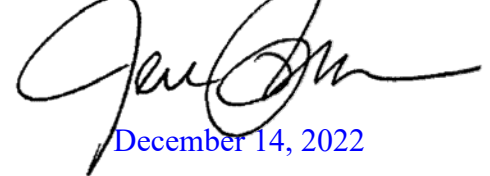
*/s/ Maximillian S. Shifrin*

Maximillian S. Shifrin

Application GRANTED. The Court will assess whether to keep the materials at issue sealed or redacted when deciding the underlying motion.

The Clerk of Court is directed (1) to seal ECF Nos. 215-21 and 215-37 to 215-41 (i.e., to make them viewable by the parties and Court only); and (2) to terminate ECF No. 222.

SO ORDERED.



December 14, 2022